

REMARKS

Reconsideration of this Application is respectfully requested. Upon entry of the foregoing amendments, claims 1-10, 13-16 are pending in the application, with claim 1 being the independent claim. Claims 11-13 and 17-31 have been canceled without prejudice or disclaimer. Support for the subject matter of the amended claims is contained in the application as originally filed. Because the foregoing changes introduce no new matter, their entry is respectfully requested.

Based on the above Amendment and the following Remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 112

The Examiner has rejected claim 13 under 35 U.S.C. §112, first paragraph as being failing to comply with the written description requirement (i.e., containing new matter). Although the Examiner's rejection of claim 13 is moot due to the cancellation thereof, Applicants respectfully traverse the Examiner's rejection as the limitations of claim 13 have been incorporated into independent claim 1.

The Examiner has taken the position regarding clamps and sealing agents that “[t]he previous claims and specification suggests one or the other are used but not in combination (see paragraph [0040]).” *See* Office Action, page 2. Applicants respectfully disagree as paragraph 40 does not support the Examiner's position. Paragraph 0040 recites a number of means for attaching each pipette tip at its base to the flexible membrane that can be used singly or in combination. Paragraph 0040 simply does not suggest that clamps and sealing agents are mutually exclusive.

In fact, the Examiner's position is explicitly contradicted by the application as originally filed. *See* published application, paragraph no. 0048. The originally filed application explicitly states that “flexible membrane 110 ... is positioned on base 126 of the tip array *and sealed by a*

clamp 140 . . . , the seal being optionally aided by a sealing agent, preferably silicone oil.” Id. (emphasis added). Accordingly, the application explicitly supports clamps and sealing agents used in combination.

For at least the above reasons, Applicants respectfully request the Examiner withdraw the rejections under 35 U.S.C. §112, first paragraph.

Rejections under 35 U.S.C. § 102 and 103

Claims 1-10, 13-28, and 31

The Examiner has rejected claims 1-10, 13-28, and 31 under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 4,444,062 to Bennett et al. (“Bennett”), or under 35 U.S.C. § 103 as being obvious over Bennett in view of U.S. Patent Application Publication No. 2004/0033554 to Powers (“Powers”), U.S. Patent No. 6,869,571 to Ingenhoven et al. (“Ingenhoven”), or U.S. Patent No. 7,105,132 to Shumate et al. (“Shumate”). The rejection of claims 17-28, and 31 has been rendered moot by the cancellation thereof.

Bennett lacks the multichannel pipette system of the present invention comprising a static seal between a flexible membrane and tip arrays formed in part with a sealing agent, as is called for by amended claim 1.

The Examiner has taken the position that “[a]n elastic membrane 68’ could be secured to the upper surface of the barrel member 52’ by any suitable means such as heat sealing (sealing agent).” Office Action, page 5. Applicant respectfully submits that such interpretation misinterprets and/or misconstrues Bennett. The heat sealing described by Bennett is a means of attaching, similar to gluing, and is not used to create a fluid seal. This is the clear meaning of “heat sealing” when the context of the recited text of Bennett is taken into account:

In lieu of the plastic diaphragm 68, an elastic membrane 68' could then be secured to the upper surface of the barrel member 52' by any suitable means such as heat sealing or a groove and O-ring connection similar to that described with respect to the first embodiment.

Bennett, column 5, lines 20-24, emphasis added. Thus, Bennett's "heat sealing" is an alternate means of attaching the membrane to the barrel member, not a means of fluid sealing.

In contrast, the sealing agent of the present invention is a discrete substance that is used to seal, such as silicone oil (*see* published application, paragraphs 0040 and 0048), oil or grease (*see* published application, paragraph 0045), and the like. As such, Bennett teaches away from the present invention as conventional "heat sealing" merely fuses two components together.

Furthermore, independent claim 1 sets forth that "*the static seal between the flexible membrane and the tip arrays* is formed in part with a sealing agent." As such, Bennett teaches away from the present invention as Bennett explicitly teaches heat sealing the membrane to the barrel member and not tip arrays.

Powers, Ingenhoven, and Shumate fail to account for these deficiencies of Bennett.

For at least these reasons, Applicants respectfully submit that Bennett does not anticipate independent claim 1. Applicants submit that claims 2-10 and 13-16, which depend from claim 1, are allowable over the cited art for at least the same reasons noted above.

CONCLUSION

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided below.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extension of time or additional claims, and/or credit any overpayment to Deposit Account No. 50-0310 (Order No. 067437-5009-US01).

Prompt and favorable consideration of this Amendment and Response is respectfully requested.

Respectfully submitted,

By:



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